

ENTERED

June 02, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KIMBEL CARTER, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. H-20-1324
§
HARRIS COUNTY JAIL, §
§
Defendant. §

ORDER OF DISMISSAL

The plaintiff, Kimbel Carter, is an inmate in custody of the Harris County Jail. He sued the jail under 42 U.S.C. § 1983, alleging violations of his civil rights.

Section 1915A of Title 28 of the United States Code requires a federal district court to “review . . . a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.” If the complaint presents no valid claims, the court must dismiss the complaint.

The capacity of an entity to be sued is “determined by the law of the state in which the district court is held.” Fed.R.Civ.P. 17(b). A county or city department must have a separate legal existence to be sued. *See Darby v. Pasadena Police Dept.*, 939 F.2d 311, 313 (5th Cir.1991). Under Texas law, a County Sheriff’s department cannot be sued. *See Propes v. Plano Police Dept.*, 2005 WL 1177880 (E.D.Tex. May 18, 2005). A county jail is a division of the County Sheriff’s department. The Harris County Jail cannot be sued as Mr. Carter has attempted to do.

Because Carter has sued a defendant that is legally incapable of being sued, he fails to state a claim on which relief can be granted. His complaint, (Docket Entry No. 1), is **dismissed**. All other pending motions, (Docket Entries No. 9, 10, 12, 13 and 14), are **denied as moot**.

SIGNED on June 2, 2020, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge